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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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11 GUILLERMO BITANGA,

No. C 10-04770 CRB

12 Plaintiff,

**ORDER GRANTING MOTION TO  
DISMISS**

13 v.

14 LONG BEACH MORTGAGE CO., et al.,

15 Defendants.  
16 \_\_\_\_\_/

17 Pro se Plaintiff, a mortgagee, brought this suit asserting various state and federal  
18 claims related to the mortgage on his property. Plaintiff has named a litany of Defendants in  
19 this action, including the mortgage broker, the lender, the title insurance company, and 20  
20 unnamed Does.

21 Defendant First American Title Insurance Company (“FATCO”) filed a Motion to  
22 Dismiss, seeking dismissal pursuant to Rule 12(b)(6) on the ground that the Complaint fails  
23 to allege that the company was a party to the loan or that it breached any duty owed to  
24 Plaintiff. See Mot. Dismiss at 3 (dckt. no. 6).

25 Defendant’s Motion is GRANTED without prejudice because Plaintiff’s claims  
26 against Defendant FATCO do not meet the “facial plausibility” test required by Rule 8 and  
27 binding precedent. Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009) (citing Bell Atlantic  
28 Corp. v. Twombly, 550 U.S. 544, 570 (2007)). The only specific allegation against FATCO  
is that it acted as the “original escrow/title company.” See Compl. ¶ 6. The fact that the

1 claims in the Complaint purport to be made against “all defendants” is not sufficient to give  
 2 rise to a plausible right to relief against FATCO, especially given the nature of the conduct  
 3 asserted.<sup>1</sup> Accordingly, the Motion to Dismiss is granted. However, the dismissal is without  
 4 prejudice to allow Plaintiff an opportunity to amend his Complaint, if possible, to state a  
 5 valid claim against FATCO.<sup>2</sup>

6 Plaintiff’s amended complaint, if any, must be filed by February 21, 2011. Failure to  
 7 file an amended complaint will result in dismissal with prejudice of all claims against  
 8 Defendant FATCO.

9 **IT IS SO ORDERED.**

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 12 Dated: February 2, 2010



13 CHARLES R. BREYER  
 14 UNITED STATES DISTRICT JUDGE

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 23 <sup>1</sup> Plaintiff’s claims, though nominally implicating “all defendants,” seem to pertain only to the  
 24 loan origination and closing process. Typically, a title insurer is not a party to the loan transaction. See  
 25 Title Ins. Co. v. State Bd. of Equalization, 4 Cal. 4th 715, 739 (1992) (“A title insurance policy is a  
 26 contract that insures the owner of property or another interested party against defects in title or liens and  
 encumbrances that affect title, the invalidity of liens or encumbrances, or the incorrectness of title  
 searches.”).

27 <sup>2</sup> Plaintiff has not responded to the Motion to Dismiss and has not otherwise communicated with  
 28 the Court notwithstanding the fact that the deadline for filing an Opposition has passed. After carefully  
 considering the allegations in the Complaint, Defendant’s Motion to Dismiss, and Plaintiff’s lack of  
 timely Opposition, the Court concludes that oral argument is unnecessary and VACATES the February  
 18, 2010 hearing.